

AG Contract No.: KR03-0765TRN  
ADOT ECS File: JPA 03-054  
Project No. HRF-LHV-0-785  
TRACS No. 0000 MO LHV FH085 01C  
Section: Kiowa Ave., Kimo Cir. To  
Country Shire Avenue  
HURF Exchange Program

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND THE CITY OF  
LAKE HAVASU CITY

THIS AGREEMENT is entered into 29 July, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF LAKE HAVASU CITY acting by and through its and (the "City").

### I. RECITALS

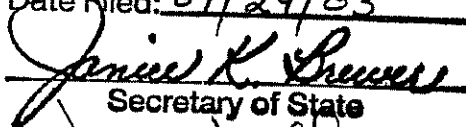
1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State


2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State has approved the exchange of \$405,000.00 Highway User Revenue Funds (HURF) in Fiscal Year 2003 to the City for the construction of improvements to Kiowa Ave., Kimo Cir. To Country Shire Ave., and such funds will be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) federal funds and the obligation authority for federal funds in the amount of \$431,851.95 in Fiscal Year 2003.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

---

NO. 26199  
Filed with the Secretary of State  
Date Filed: 07/29/03  
  
Secretary of State

By:   
Jimmy D. Starnes

## **II. SCOPE OF WORK**

### **1. The City will:**

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations

c. Invoice the State for thirty percent of the Project construction cost, at the start of construction ,

d. Invoice the State for thirty percent of the Project cost at the thirty percent and sixty percent Project construction completion stages

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide ADOT with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the City, WACOG, and the State (ADOT) representatives have completed final project review

### **2. The State will:**

a. Within 30 days after receipt and approval of an invoice, pay for the Project cost at the thirty percent project completion state, and for thirty percent of the Project cost at the sixty percent Project completion state, and for thirty percent of the Project cost at the ninety percent Project completion state, and pay 10 percent upon completion of construction.

b. Withhold from WACOG, federal funds and the obligation authority of federal funds \$431,851.95 in Fiscal Year 2003 for construction.

## **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees

2. Non-Discrimination. The contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws,

rules and regulations, including the Americans With Disabilities Act. The contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.

3. **Non-Availability of Funds** Every payment obligation of ADOT and the City under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by ADOT and the City at the end of the period for which the funds are available. No liability shall accrue to ADOT and the City in the event this provision is exercised, and ADOT and the City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

4. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows.

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue – Mail Drop 616E  
Phoenix, AZ 85007  
FAX (602-712-7424)

Lake Havasu City  
Town Manager  
2330 McCulloch Blvd. N.  
Lake Havasu City, AZ 86403

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written


CITY OF LAKE HAVASU

STATE OF ARIZONA  
Department of Transportation

By   
BOB WHELAN  
Mayor

By   
DALE BUSKIRK, Division Director  
Transportation Planning Division

ATTEST

By   
City Clerk

G:03-xxx-LGVT-Lake Havasu City-HURF  
6-11-03-jw

RESOLUTION NO. 03-1756


A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF LAKE HAVASU  
CITY, MOHAVE COUNTY, ARIZONA, AUTHORIZING THE  
MAYOR TO EXECUTE AN INTERGOVERNMENTAL  
AGREEMENT WITH THE STATE OF ARIZONA (ADOT)  
FOR CONSTRUCTION OF IMPROVEMENTS TO  
KIOWA AVENUE

WHEREAS, the Arizona Department of Transportation has approved the exchange of \$405,000.00 in Highway User Revenue Funds (HURF) to the City for construction of improvements to Kiowa Avenue in the City; and


WHEREAS, Lake Havasu City agrees to construct the Kiowa Avenue Widening project, for an estimated construction cost of \$1,221,354 00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council hereby approve this intergovernmental agreement for the intent and purpose stated above, and authorize the Mayor to execute said agreement with the State of Arizona (ADOT) relating to the construction of improvements to Kiowa Avenue.

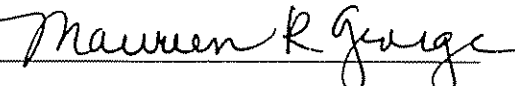
PASSED AND ADOPTED by the Mayor and City Council of Lake Havasu City, Arizona, this 8<sup>th</sup> day of July, 2003

  
Bob Whelan, Mayor


ATTEST:

  
Carla Simendich, City Clerk

APPROVED AS TO FORM  
LAKE HAVASU CITY ATTORNEY'S OFFICE:

BY: 

REVIEWED BY:

  
Kevin P. Murphy, Public Works Director

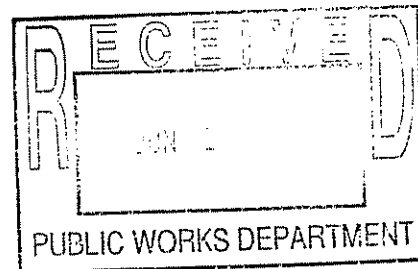
APPROVAL OF THE LAKE HAVASU CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and LAKE HAVASU CITY and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 8<sup>th</sup> day of July, 2003

Maureen R Gorge

City Attorney





OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

TERRY GODDARD  
ATTORNEY GENERAL

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR03-0765TRN (JPA 03-054), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED July 22, 2003.

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", written over a horizontal line.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/ss

att.